

## REMARKS

This amendment is responsive to the Office Action dated August 30, 2011. Prior to the present amendment, Claims 1, 2, 4, 19-22, 24, and 26-29 were pending in the application. By this amendment, Claims 1, 2, 19, 21, and 27 have been amended and Claims 30-50 have been added. Therefore, Claims 1, 2, 4, 19-22, 24, and 26-50 are now pending in the application. Reconsideration and allowance of the present application is respectfully requested in view of the foregoing amended claims and the following remarks.

### Claim Amendments

In the Office Action, the Examiner considered the term "and/or" in Claim 1 as being unclear. Applicants have followed the Examiner's suggestion and amended Claim 1 to replace the term "and/or" with the term "or." Applicants submit, however, that this amendment does not change the scope of the claim. The term "or" is not exclusive, as the claim continues to encompass circumstances in which any or all of the alternatives are present.

Consistent with the amendments made to Claim 1, applicants have similarly amended Claims 19, 21, and 27. Again, the scope of the claims has not changed. The term "or" is not exclusive. The claims encompass circumstances in which any or all of the alternatives are present.

Claim 1 has also been amended to recite a security feature in which a modified cooking parameter is confirmed, accepted, or stored by the cooking device through (1) operation of the confirmation or storage function element by the operator during the predetermined time period, and (2) if the predetermined time period has elapsed and the operator has not operated the confirmation or storage function element with regard to the modified cooking parameter, the cooking device automatically confirms, accepts, or stores the modified cooking parameter. Basis for this amendment is found in original Claim 1 as filed. New Claims 30 and 39 recite a similar security feature.

It should be understood that the amendments presented herewith are made without prejudice or disclaimer of any claim scope that applicants are entitled to pursue in this application or in any continuing or divisional application.

Claims 30-50 have also been added. Claim 30 is similar to Claim 1 except Claim 30 states that "the control element is configured to receive information via the input and to automatically preset the cooking parameter *as a function of a selected operating language of the cooking device.*" By comparison, Claim 1 states that "the control element is configured to receive information via the input and to automatically preset the cooking parameter *as a function of the geographic location of the cooking device.*" Claim 39 states that "the control element is configured to receive information via the input and to automatically preset the cooking parameter *as a function of the geographic location of the cooking device and as a function of a selected operating language of the cooking device.*" (Emphasis added solely for purposes of comparison.)

Basis for new Claims 30 and 39 is found in original Claim 1 and in the original specification as filed. Basis for new Claims 31-38 is found in original Claims 2, 4, 19-21, and 27-29 and in the specification as filed. Basis for new Claims 40-50 is found in original Claims 2, 4, 19-22, 24, and 26-29. No new matter has been added.

#### Claim Rejections - 35 U.S.C. § 112

In the Office Action, Claim 1 was rejected under Section 112, second paragraph, as allegedly being indefinite. Claims 2, 4, 19-22, 24, and 26-29 were rejected for their dependency on Claim 1.

As noted above, applicants have followed the Examiner's suggestion and amended Claim 1 to replace the term "and/or" with the term "or." With this amendment, it is understood that Claim 1 and its dependent Claims 2, 4, 19-22, 24, and 26-29 are definite and meet the requirements of Section 112. Withdrawal of the claim rejections under Section 112 is merited.

### Claim Rejections - 35 U.S.C. § 103

In the Office Action, Claims 1, 4, 19, 21, 22, 24, and 26-29<sup>1</sup> were rejected under Section 103(a) as allegedly being unpatentable over US Patent No. 5, 997,928 (Kaish) in view of DE Patent No. 198 32 757 (Juergen), DE Patent No. 198 30 844 (Wolfgang), and DE Patent No. 198 02 594 (Andreas).<sup>2</sup>

Kaish purports to describe a food vending system which, according to Col. 11, lines 1-5, has a GPS receiver 107 that allows a transceiver 118 to transmit, through an antenna 109, a location of the system to a central location, for example, to locate the system for remediation of an alarm condition, restocking, pick-up at the end of a shift, or the like. This, however, does not teach anything that suggests receiving information on a geographic location of a cooking device in order to have a certain cooking parameter automatically preset as a function of the device's geographic location. With the cooking device of Claim 1, where the control element is "configured to receive information via the input and to automatically preset the cooking parameter as a function of the geographic location of the cooking device," food will be differently prepared depending on the geographic location of the cooking device. For at least this reason, the disclosure of Kaish is not relevant to the subject matter claimed in Claim 1 of the present application.

The disclosure of Kaish is also not relevant to the subject matter of Claim 30, in which the control element is "configured to . . . automatically preset the cooking parameter as a

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<sup>1</sup> The Office Action (page 3) explicitly rejected Claims 1, 4, 19, 21, 23, 26, and 27 based on Kaish, Juergen, Wolfgang, and Andreas. However, Claim 23 has been canceled, and in the commentary, the Office Action addressed Claims 22, 24, 28, and 29. Applicants therefore respond as if the rejection was made with regard to Claims 1, 4, 19, 21, 22, 24, and 26-29.

<sup>2</sup> As noted in applicants' prior response, the surname of the first inventor of DE 198 32 757 is Leikam, but in the Office Action, the Examiner referred to the reference by the first name of the inventor (Juergen). Likewise, the surname of the first inventor of DE 198 30 844 is Beifuß, but in the Office Action, the Examiner referred to the reference by the inventor's first name (Wolfgang). Similarly, the Examiner referred to the inventor's first name for DE 198 02 594 (Andreas). For consistency with the Office Action, applicants' arguments submitted herewith refer to the references by the inventors' first names "Juergen," "Wolfgang," and "Andreas."

function of a selected operating language of the cooking device." At a minimum, this feature is not taught by Kaish. Claim 39 is likewise not taught or suggested by Kaish, as the control element according to Claim 39 is "configured to . . . automatically preset the cooking parameter as a function of the geographic location of the cooking device and as a function of a selected operating language of the cooking device."

In the Office Action (pages 3-4), the Examiner acknowledged many deficiencies of the disclosure of Kaish relative to Claim 1. Applicants agree, and respectfully submit that the disclosures of Juergen, Wolfgang, and Andreas, considered alone or in combination, do not overcome the deficiencies of Kaish.

In Juergen, there is no disclosure of any cooking parameter reflecting at least one of a geographic location of a cooking device and a selectable operating language. Rather, in contrast, Juergen solely discloses that it is possible to re-program the oven taught by Juergen in order to make use of another language for a display unit. The respective re-programming appears to take place via a CD update or the like. Juergen therefore leads away from the respective features of the invention claimed in Claim 1, wherein at least one cooking parameter value is automatically preset as a function of the geographic location of the cooking device. Juergen similarly teaches away from the respective features claimed in Claims 30 and 39, wherein at least one cooking parameter value is automatically preset as a function of the selected operating language of the cooking device (Claim 30), and wherein the cooking parameter is automatically preset as a function of the geographic location of the cooking device *and* the selected operating language of the cooking device (Claim 39).

With respect to Wolfgang, applicants submit that Wolfgang solely teaches a parameter of a cooking process within a cooking list, identified by an ordinal number 13 based on a language, without disclosing the parameter being changeable by an operator in connection with a security feature as recited in Claim 1. This security feature includes a requirement that an operator either affirmatively confirms, accepts, and/or stores a modified cooking parameter during a

predetermined time period or passively confirms, accepts, and/or stores the modified cooking parameter by not taking action with the confirmation or storage function element to confirm, accept, or store the modified cooking parameter during the predetermined time period.

Claim 1 of the present application originally defined this feature by stating that "the modification can be confirmed, accepted and/or stored by the cooking device during a predetermined time period through at least one confirmation and/or storage function element of the control element of the cooking device, and is automatically confirmed, accepted and/or stored by the cooking device after the time period elapsed." It is noted that a normal reaction time of an operator is usually less than 4 seconds such that in actual cooking devices, the predetermined time period is around 4 seconds.

This security measure is now recited in Claim 1 which states that "the modified cooking parameter is confirmed, accepted, or stored by the cooking device through (1) operation of the confirmation or storage function element by the operator during the predetermined time period, and (2) if the predetermined time period has elapsed and the operator has not operated the confirmation or storage function element with regard to the modified cooking parameter, the cooking device automatically confirms, accepts, or stores the modified cooking parameter." This measure helps avoid an unintentional modification of the preset cooking parameter.

Furthermore, according to Wolfgang, an operating language may be used to determine the order in which information, such as cooking programs, are displayed on a display. However, determining the order of display of cooking programs has no bearing on the output of the cooking device that implements the selected cooking programs. In contrast, the present application describes how the language used with a cooking device ultimately influences the environmental condition of food being cooked in the cooking device.

In rejecting the pending claims, the Office Action also relied upon the disclosure of Andreas. However, Andreas does not refer to a cooking oven, but rather to an automated driving function of a motor vehicle. Applicants respectfully submit that the teachings of Andreas

regarding the operation of a car are not properly combined with cited art that concerns cooking devices. A person of ordinary skill in the art of cooking devices at the time the invention was made would not turn to the teachings of Andreas to modify the control functions of a cooking device. In this instance, the Examiner's reliance on Andreas (which, notably, is the fourth cited reference in the combination) appears to be driven by hindsight analysis to achieve the cooking device claimed in Claim 1, with the benefit of the disclosure of the present application. Applicants submit that this analysis is improper. Similar arguments are applicable to Claims 30 and 39.

The disclosure of Belt with respect to Claims 2 and 20 does not overcome the deficiencies discussed above with respect to Kaish, Juergen, Wolfgang, and Andreas. Therefore, the rejection of Claim 1, and its dependent Claims 2, 4, 19-22, 24, and 26-29, should be withdrawn.

For at least similar reasons, applicants further submit that no combination of Kaish, Juergen, Wolfgang, Andreas, and Belt renders obvious new Claims 30-50. Therefore, Claims 30-50 should be allowed.

### CONCLUSION

The remarks above have demonstrated the patentability of Claims 1, 2, 4, 19-22, 24, and 26-50. Applicants therefore respectfully request action at an early date to allow the claims and pass the case to issue.

Respectfully submitted,

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